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Paper No. 6

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TULSA OK 74103-3318

(Applicants)

**COPY MAILED**

NOV 14 2003

**OFFICE OF PETITIONS**

In re Application of  
David Howard  
Application No. 09/777,472  
Filed: February 6, 2001  
For: PASTEURIZATION OF FOOD PRODUCTS

:  
: Three  
: Week  
: Letter  
:

A petition for access was filed by Rick L. Abegglen attorney for ALKAR-RapidPak for access to certain application(s) on November 7, 2003 concurrently with a protest under 37 C.F.R. 1.291.

The petition was filed with proof of service upon applicant. Accordingly, a copy of the petition is not included herewith.

A review of Office records indicates that the above-identified application is the intended application. If this determination is incorrect, Applicant should indicate which application(s) are the correct application(s).

The petition refers to 37 C.F.R. 1.14(j), which was modified on June 30, 2003, to become paragraph 1.14(h) effective July 30, 2003. See 68 FedReg. 38611 at 38625.

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 U.S.C. § 122. See Manual of Patent Examining Procedure (MPEP), Section 103. Assuming, arguendo, that David Howard has filed such an application, the use of such application to interfere with the business of others may be such special circumstances. Ex parte Bonnie-B Co. Inc., 1923 C.D. 42; In re Application for Trimless Cabinets, 128 USPQ 95 (Comm'r Pats. 1960); and In re Crossman, Kenrick, and LeMieux, 187 USPQ 367 (PTO Sol. 1975).

Petitioner urges that access should be granted to the above-identified application because of alleged interference in their business which they believe constitutes special circumstances. The interference described in the petition is a series of letters from David Howard of Unitherm Food Systems, Inc., Carolina Turkeys and Alkar inviting the licensing of Unitherm's technology and identifying certain activities that allegedly infringe rights to be conveyed by the above-identified

application.

Applicants are hereby given THREE WEEKS from the date of this letter to file an opposition to this access request. If applicants reply within the three week period, applicants' comments will be considered in deciding the petition. See MPEP section 103.

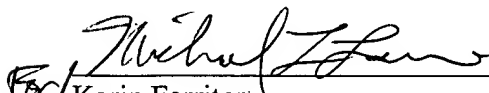
Correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop Petition  
                                    Commissioner for Patents  
                                    P.O. Box 1450  
                                    Alexandria, VA. 22313-1450

By fax:                        (703) 872-9005  
                                    Attn: Access Reply Letter

By hand:                     Office of Petitions  
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Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

  
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